

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSHUA LINER,

Plaintiff,

-against-

KATHY HOCHUL, GOV, et al.,

Defendants.

1:21-CV-11116 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated January 10, 2022, the Court directed Plaintiff, who appears *pro se*, within 30 days, to either pay the \$402 in fees to bring this action or submit a completed and signed application to proceed *in forma pauperis* (“IFP”). On January 24, 2022, the court received a letter from Plaintiff in which he stated that he had “just got a huge settlement. [His] checks should be starting to hit [his] bank account in (2) weeks. [He] will pay. No IFP.” (ECF 3.) On February 3, 2022, Plaintiff paid the court \$405 via a money order.

By order dated February 7, 2022, the Court directed the Clerk of Court to issue a refund to Plaintiff in the amount of \$405, and directed Plaintiff, within 30 days, to either submit payment of exactly \$402 in fees – the amount of fees to bring a federal civil action – or complete, sign, and submit an IFP application. On February 14, 2022, Plaintiff filed an IFP application in which he stated that he is unemployed, earns \$800 per month in Social Security benefits, possesses no money or other assets, pays an unspecified amount of rent, does not financially support anyone else, and has no other financial obligations; he failed to mention anything as to the fact or amount of the settlement funds he previously stated he was to receive. (ECF 5.) One day later, on February 15, 2022, the court received another letter from Plaintiff in which he stated, “the money was not sent back per order,” and that he has “no other funds to

contribute.” (ECF 6.) He also stated that “once the money order is sent back to [him][,] [he] will convert the money . . . order from \$405 to \$402. . . .”¹ (*Id.*)

In light of Plaintiff’s \$405 payment, which indicates that Plaintiff has the ability to pay the fees to bring this action, and because of his failure to report to the Court, in his IFP application, the fact and amount of the settlement funds he previously stated he was to receive, the Court denies Plaintiff’s IFP application. The Court directs Plaintiff, within 30 days of the date of this order, to pay exactly \$402 in fees to bring this action.

No summons shall issue at this time. If Plaintiff complies with this order, this action shall be processed in accordance with the procedures of the Clerk’s Office. If Plaintiff fails to comply with this order within the time allowed, this action will be dismissed.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

The Court directs the Clerk of Court to mail a copy of this order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: February 18, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge

¹ The Court notes that on February 7, 2022, the Clerk of Court mailed the refund to Plaintiff by certified mail.